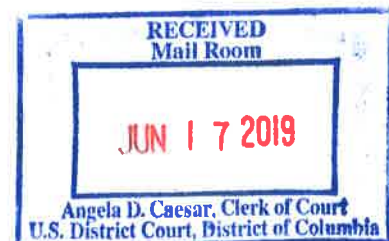


DEPARTMENT OF JUSTICE, \$
FEDERAL BUREAU OF INVESTIGATION, \$
EXECUTIVE OFFICE OF \$
UNITED STATES ATTORNEYS, OFFICE \$
OF INFORMATION POLICY. \$
Defendants. \$

Jury Trial Demanded

I. Introduction

(1)



II. Exhaustion of Administrative Remedies

On February 11, 2018, the Plaintiff filed an FOIA Request to the Executive Office Of United States Attorneys for records that pertained to his investigation for Racketeering, Conspiracy to distribute heroin, Cocaine, and marijuana, well as the murders of U.S. Consulates. The EOUSA failed to respond to the Plaintiff's FOIA Request.

On February 11, 2018, the Plaintiff filed an FOIA request to the Federal Bureau of Investigation for records. FOIA/PA Request No. 13969-76-000. The FBI Section Chief David M. Hardy responded, claiming that the records Plaintiff sought could not be sent to the Bureau of prison, and required Plaintiff to provide an alternate address. At the request of Mr. Hardy, Cardona provided an alternate address where the records could be sent. The FBI failed to send the records to the address that was provided by Cardona.

On 2/11/14, 2018, Plaintiff sent another request to the FBI for records that pertained to his involvement with the Azteca Organization. FOIA/PA Request No. 1397014-000. The FBI denied this request and the Plaintiff appealed to the Office of Information Policy. The OIP assigned appeal number: DOJ-AP-2018-004046. As of yet, Plaintiff has not received any response from the OIP regarding the appeal. The FBI failed to provide documents in FOIA Request Number: 1397014-000 of Aguirre Josue.

III. STATEMENT OF CLAIMS

(1). The Federal Bureau of Investigation has failed to timely produce records to the Plaintiff as required by the FOIA ACT. In the FOIA/PA Request No. 1396976-000, Hardy claimed that the records could not be

sent to the Bureau of Prison, and asked the Plaintiff to provide an alternate address where the Cds could be sent. Hardy never sent the Cds to the alternate address.

(2). The Executive Office of United States Attorneys was also requested to provide records, and documents to Mr. Cardona on February 11, 2018, and has failed to even acknowledge the the FOIA request filed by the above Plaintiff.

(3). Defendants failed to respond in a timely manner.

(4). Defendants failed to turn over non-exempt records.

(5). Defendants intentionally withheld documents that pertains to the FOIA requests filed by Mr. Cardona.

STATEMENT OF FACTS

(6). On or about March 2, 2011, Cardona was charged in a Third Superseding Indictment in the Western District of Texas, El Paso Division. The indictment charged Cardona with Conspiracy to Conduct Affairs of an Enterprise through a Pattern of Racketeering Activity in violation of Title 18 U.S.C. § 1962(d) (Count One); Conspiracy to Possess with the intent to Distribute One Kilogram or More of Heroin, Five kilogram or More of Cocaine, and One Thousand Kilograms or More of Marijuana in violation of Title 21 U.S.C. § 963, 952, and 960(b)(1)(A), (B), and (G) (Count Three).

(7). On August 11, 2011, Cardona entered a plea agreement with the Government, which he agreed to plead guilty to Count One of the Third Superseding Indictment, Conspiracy to Conduct the Affairs

of an Enterprise through a Pattern of Racketeering Activity.

(7). The Executive Office of The United States (EOUSA) failed to comply with the timeline set forth by the FOIA ACT. (See Attachment-1), which is the original FOIA Request filed by the Plaintiff to the EOUSA, United States Postal Service Tracking Number: 7017-0190-0000 5119 2182.

(8). The Federal Bureau of Investigation has failed to release Documents that pertains to the investigation of Aguirre Josue, and his association with the Barrio Azteca Organization, Angel Cardona, well as any money paid to Gustavo Gallardo; likewise, the FBI has failed to provide any documents of David Farrington blowing the whistle to the Federal Bureau of Investigation in regards to the U.S. Consulate crimes, murders, ETC... in Juarez, Mexico. The FBI applied Exemptions 552 (b)(7)(E), (b)(6)(b)(7)(C) to withhold records in FOIA request Number: 1397014-000. (See Attachment-2).

(9). The Office of information Policy should have instructed the FBI to conduct an adequate search for responsive documents in all the relevant "systems" that was likely to turn up records, and any, and all non-exempt records should have been provided to the Plaintiff; the OIP has failed to respond to the appeal filed by Mr. Cardona in the above FOIA proceedings. The OIP should have reversed the decision by the (FBI) to not turn over records that is acknowledge in the Public Domain already, and various Criminal cases that has been prosecuted in the Fifth Circuit District Court of the Western District of Texas.

(10). Statement of Issues

FOIA was intended "to pierce the veil of administrative secrecy and open agency action to the light of public scrutiny." See

Department of the Air Force v. Rose, 425 U.S. 352, 361, 96 S.Ct. 1592, 48 L.Ed.2d. 11 (1976). Although Congress enumerated nine exemptions from the disclosure requirement; these exemptions do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the ACT. Nat'l Ass'n of the Home Builders v. Norton, 309 F.3d 26, 353 U.S. App. D.C. 374 (D.C. 2002)(quoting Rose, 425 U.S.- at 361). "At all times courts must bear in mind that FOIA mandates a 'strong presumption in favor of disclosure.'" id.(quoting U.S. Dept of State v. Ray, 502 U.S. 164, (1991)).

(11). The Federal Bureau of Investigation ("FBI") utilized exemptions (b)(6), (b)(7)(C), and (j)(2) to the records that was responsive to the various FOIA requests filed by Mr. Cardona; minus the request that Mr. Cardona filed that pertained to himself; in that FOIA Request, the FBI just failed to send the records to the address Cardona provided.

(12). It is already public knowledge that the FBI was involved in the investigation of the Barrio Azteca RICO Investigation. It is also public knowledge that David Farrington blew the whistle to the FBI in regards to the murder of U.S. Consulates in Juarez, Mexico.

(13). Therefore, any exemption the Agency may attempt to apply serves no purpose especially in light of the Public Interest that is being asserted: The Public has a right to know how the FBI conducted the Investigation of the murder on U.S. Consulates; the Public has a right to know: whether the FBI had information that pre-dated the murders on U.S. Consulates and failed to exercise authority in preventing the murders from happening.

(14). Under the Public Domain Doctrine, FOIA-exempt information may not be withheld if it was previously disclosed and preserved in a permanent public record. Chesapeake Bay Found., Inc v. U.S. Army-Corps Engrs, 722 F.Supp.2d.66,72 (D.C. Cir. 2010). The fact that the FBI had received intelligence from David Farrington in regards to the plot to kill U.S. Consulates has been publicized in the media through various media outlets. The investigation of crimes being allegedly committed by the Barrio Azteca Organization has been affirmatively acknowledged in various criminal cases prosecuted by the Western District of Texas, and investigated by the Federal Bureau of Investigation: United States v. Arturo, 534 Fed. Appx.262-2013; United States v. Galindo; United States v. Cardona; United States v. Herrera; at the very least, the Public already knows about the FBI's investigation on the Barrio Azteca organization from various criminal cases that arose from the Western District of Texas.

(15). FEE WAIVER UNDER 5 U.S.C§ 552(a)(4)(A)(viii)

The relevant statute states that " an agency shall not assess search fees under this subsection if the agency fails to comply with any time limit under paragraph Six; if no such unusual or exceptional circumstances apply to processing of the request." 5 U.S.C.- 552 (a)(4)(A)(viii).

(16). Plaintiff clearly meets the statutory requirement for a Fee waiver, due to the lapse of time that has went by before the Executive office of United States attorneys processed the request. (See Attachment-3). The FBI is required to Waive search Fees as well based on its lack of producing responsive records. (See Attachment-4).

(16). Relief Requested

Compel the above "defendants" to conduct an adequate search, and to produce all responsive records to the Plaintiff. If any records is catergorically exempt, provide the Plaintiff a de - tailed Affidavit (Vaughn Index), describing the withheld records.

(17). I HEREBY DECLARE UNDER THE PENALTY OF PERJURY, 18 U.S.C.- § 1746, THAT THR FOREGOING IS TRUE AND ACCURATE.

(18). Signed this 28 day of May 2019.

(19). /s/ *Nikki Perry*

(20). Notorized:

